

[Docket Nos. 56, 59, and 67]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

JODY LUTTER, as individual,

Plaintiff,

v.

JNESO, et al.,

Defendants.

Civil No. 19-13478 (RMB/KMW)

OPINION

APPEARANCES:

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BUMB, UNITED STATES DISTRICT JUDGE:

I. ANALYSIS

On November 30, 2020, the Court entered an Order [Docket No. 94] which granted, in part, and denied, in part, Defendants' Motions to Dismiss. [Docket Nos. 56 and 59]. The Court also reserved ruling on remaining arguments in these motions, as well as arguments in Plaintiff's Cross-Motion for Declaratory Judgment. [Docket No. 67]. In that Order, the parties were instructed to file briefs addressing whether Hartnett v. Pennsylvania State Educ. Ass'n, 963 F.3d 301 (3d Cir. 2020), controlled any issues in this matter, and whether a stay was warranted given the pending appeals in several related matters.

Shortly after the parties submitted those briefs, and before the Court addressed their requested relief, the Third Circuit issued an Opinion in Thulen v. Am. Fed'n of State Cty. & Mun. Emps. New Jersey Council 63, 844 F. App'x 515 (3d Cir.

2021). In Thulen, the plaintiffs-- like Plaintiff here-- sought "declarations that union members have 'a constitutional right . . . to resign from a union at any time[,]' and that the [New Jersey Workplace Democracy Enhancement Act's] revocation provision 'is void and unenforceable.'" Thulen, 844 F. App'x at 518. The Third Circuit considered whether the plaintiffs, who were no longer union members, had standing to bring those claims. The Court held that, because the plaintiffs "are not currently members of AFSCME, [] they lack standing to seek relief from a future harm of dues withdrawal from their paychecks. Even if it were possible that they would rejoin the union (and, in Thulen's case, be rehired) and that AFSCME would withdraw union dues over their objection, that claimed injury is speculative." Id. at 518-19¹.

Like the plaintiffs in Thulen, Plaintiff here is not a union member. Moreover, Plaintiff seeks the same declaration that the Third Circuit refused to consider in Thulen. Thus, Plaintiff alleges only the possibility of future harm, which is "conjectural or hypothetical," and she therefore lacks standing to pursue her requested relief.

II. CONCLUSION

For the foregoing reasons, the Court will grant Defendants'

¹ On February 15, 2021, Defendant JNESO filed a letter addressing the Third Circuit's Opinion in Thulen. [Docket No. 102]. Plaintiff did not file a similar letter, nor did she respond to Defendant's letter.

Motions to Dismiss [Docket Nos. 56 and 59], deny Plaintiff's Cross-Motion for Declaratory Judgment [Docket No. 67], and dismiss this case with prejudice. An appropriate Order accompanies this Opinion.

Dated: June 1, 2021

s/ Renée Marie Bumb
RENÉE MARIE BUMB
UNITED STATES DISTRICT JUDGE